

REMARKS

Claims 1, 3-15, 17-26, 39 and 40 are pending. Claims 2 and 16 have been cancelled in light of the Amendments made to claims 1 and 13. Claims 1, 3-15, and 17-26 have been amended. All the pending claims have been amended to change "MEMS" to Micro-Electro-Mechanical System. In addition, claims 17 and 22 have been amended to recite "beam" instead of microstructure. The specification has been amended to reflect that the U.S. Government may have a paid-up license to this invention pursuant to a government contract. The specification has been amended to recite that Fig. 3D discloses a top view of a passivation layer patterned into a hexagonal mesh. Similarly, the description of the Fig. 3E has been amended to indicate that a square mesh is shown. Fig. 1 has been amended to include reference numeral 10. No new matter has been added. Claims 39 and 40 are newly added.

In the Official Action, claims 2-6 and 16-20 were indicated as being allowable if rewritten to overcome the objection set forth in the Office Action and to include all the limitations of the base claim and any intervening claims. In response thereto, Applicant has amended independent claim 1 to include the feature of dependent claim 2. Similarly, independent claim 13 has been amended to include the feature of dependent claim 16. Independent claims 1 and 13 now include the feature that the passivation layer is patterned to form a plurality of spaced protuberances. In light of the amendments made to claims 1 and 13, claims 2 and 16 have been cancelled. In addition, the dependency of claims 3-6 and 17-20 has been corrected in light of the cancellation of claims 2 and 16.

With respect to U.S. Patent No. 6,241,906 (Silverbrook), Applicant notes that

Silverbrook fails to disclose or otherwise suggest the claimed feature of a patterned passivation layer that forms a plurality of spaced protuberances. As stated in Applicant's specification, this feature significantly alleviates stiction. In contrast, Silverbrook relates to an inkjet print nozzle having a shuttered ejection mechanism. The shutter mechanism uses a buckling PTFE layer (22) which, upon movement in the lateral direction, aligns openings in the PTFE layer with underlying slots (15, 16, 17) in a nitride layer (13), thereby allowing ink to escape from a reservoir. Silverbrook does not concern or address stiction alleviation.

The Office Action has requested that a copy of each non-patent document cited in the Information Disclosure Statement filed on February 7, 2002 be provided to the Examiner. Applicant's records indicate that copies of these documents were previously submitted to the USPTO with the February 7, 2002 Information Disclosure Statement. During a telephone interview with the Examiner concerning this issue, the Examiner indicated that the crossed-off references on the Form 1449 accompanying the July 10, 2002 Information Disclosure Statement (IDS) were missing. Applicant's records indicate that copies of the above-noted references were included with the July 10, 2002 IDS. A copy of the July 10, 2002 IDS and the USPTO stamped postcard is included herewith. Applicant has also provided copies of the crossed-off references for consideration. Please initial the copy of the Form 1449 after consideration of the enclosed references. No fee is believed due for this submission.

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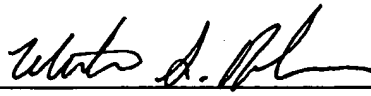
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Applicant submits that the claims are allowable. A notice of allowability is respectfully requested.

Respectfully submitted,

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